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GOVERNMENT OF INDIA

DEPARTMENT OF INDUSTRIES &amp; SUPPLIES

## RESOLUTION

*New Delhi, the 23rd April 1947*

No. D-1(265)/1.—In October 1946, the Government of India appointed a Enquiry Committee consisting of Sir Maurice Gwyer and Sir T. Vijayaraghavan, to review the problems of the Department of Industries and Supplies in charya, to advise on the adequacy and suitability of the Disposal of surplus stores; to advise whether the methods of Disposal are suited organisation and personnel; to advise whether the methods of Disposal are suited to producing results which are in the public interest and in general to suggest whether there are definite indications of corruption and methods of improving performance and standards.

2. The Report of the Committee was received on February 28th, 1947. The report was placed before the Disposals Board, or before the Standing Advisory Committee of the Legislature on the 25th March 1947.

3. The Committee found performance on the whole satisfactory, considering the conditions under which Disposals have to be effected, and the results achieved, in terms of quantity considerable. The Committee have drawn attention to certain defects which seem to them to exist in the present arrangements, but recognise the complexity of the problems with which the organisation has had to deal, and the immense difficulties inherent in any system of Disposal of surplus stores. The Committee have made a general survey of prices actually realised, and formed the opinion that prices have, on the whole, reached as reasonable a level as could be expected in the circumstances.

4. Their main findings are as follows:—

- (i) On the military side, there has been delay in declaration of surpluses, inadequate verification of quantities and instances of leakage, pilferage and collusion with custodial staff. The difficulties of coping with vast scattered and undetermined holdings while demobilization of personnel was an imperative necessity are recognized, but these defects require to be remedied.
- (ii) As far as possible, disposal should be by open tender or auction with stated reserve prices. Disposals by negotiation should be reduced to the minimum and be conducted on conditions to be prescribed.
- (iii) Speed should, with a few exceptions, be a primary objective in disposal.
- (iv) There should be the fullest publicity possible both before and after sales.

In the first half of 1946, the Disposals staff was inadequate for the volume of work, but is now nearly adequate. The Director General deserves every credit for having, with the limited resources available, brought his organisation up to a point where it will be able to cope with the work, so far as can be seen. It is doubtful whether an attempt to modify the composition of the officer staff would result in marked improvement of standards. On the other hand, it might well lead to the loss of such experience as has been gained.

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The Committee have found no evidence of corruption in its grosser forms, but it is impossible to assert categorically that it has never occurred. To dispel suspicion, all measures tending to establish the public confidence, particularly publicity, should be adopted.

and delivery of surplus stores involves three distinct stages,—declaration, sale, and delivery. Of these, only sale is the responsibility of the Director General, Disposals. The declaration of surpluses and the holding of stocks up to the time of delivery to purchasers is the responsibility of the Defence Service.

**6. In the matter o**

Procedure could have been shortened and an earlier assessment made without determined on a global basis whereby figures of surpluses are finally lag behind demobilization asis. It is obvious that demobilization of material must the strategic situation and personnel. The latter in its turn must be related to Forces, not only in India, but to the size and composition of the post-war Armed the military events since the Commonwealth as a whole. In the light of starting point has been most end of the war, it is easy to appreciate that this been done for the most part, at difficult to determine. This has, however, now Committee investigated the position. Much progress has been made since the Com- determined and formal declarations. The bulk of the surpluses have now been

7. The Committee have also drawn attention to the inaccuracy of declarations in several cases. This is true. Having regard, however, to the vast range of items, to the changes in personnel due to demobilization and to the immense holding of stores at the end of the war, it cannot be accepted that avoidable faults were serious in extent. In the early days, when the procedure was new and a sound procedure had to be developed—to a great extent as a result of actual experience—a number of cases of faulty and incomplete records was inevitable. There has been steady improvement, and this early experience by no means represents the present position. Nonetheless, it is accepted that the greatest possible accuracy is essential to the satisfactory carrying out of the subsequent stages of Disposal and to establishing public confidence therein. Instructions have been issued emphasising the personal responsibility of officers in charge of depots in this connection.

8. The Committee have also referred particularly to the handling of surpluses taken over from the U. S. Forces. Under the terms of the agreement with the U. S. Government, these are the property of the Government of India; and, like other surpluses, are held by the Defence Services. Owing to the sudden departure of the U. S. Forces, they were handed over in extremely difficult circumstances, and a check of ground balances against the documents handed over was quite impracticable. The Committee's reference to a check of only one per cent., having been completed, and its implication that nothing is known of the remaining 99 per cent., calls for an explanation, which is that the one per cent. check referred to is a recognised method of sampling over the whole field and wider checks are made where the sampling suggests the necessity for it. Arrangements have been made for all essential information regarding stocks to be available to the Director General, Disposals, and special surveys will be undertaken for categories of stores requiring this.

9. The Committee have also recommended in this connection segregation of surplus stores in the depots, and greater facilities for inspection to prospective purchasers. There are physical limitations on this due to the volume and nature of the stores and the staff and storage accommodation available; and although they are segregated to the extent possible, there must remain a wide field over which segregation is impracticable. But it is recognised that facilities at depots to potential purchasers should be improved; and, to the extent that this is possible within the limitations of security requirements, this will be arranged.

10. The inevitable uncertainty which, as already indicated, must attach to information about surpluses, has its effect on Disposal itself and on the market available to the Disposals organisation. The Committee have recognised that, though improvement in methods is possible, the basic principle of disposing of surplus goods "as is, where is" leaving it to the purchaser to find and serve the ultimate consumer, is the only practical course to take. The result of this and of the methods adopted to effect actual sales, have led to a tendency for Disposals business to be concentrated increasingly within a specialised circle of buyers. The location of stores, (which has been determined by purely military considerations), and their usually 'special' nature, which makes them rarely suited in their existing form for civil use, give the problem of Disposals its special character. The position of the Director General of Disposals is not comparable to that of the head of any ordinary business organisation. He is not in a position to guarantee quality or even quantity or render services such as delivery at a required place, which are usual in commercial practice. The Committee agree that this circumstance cannot be changed, as elaborate preparation, of surplus stores for sale by re-conditioning or conversion would be a task which a Government department is unfitted to undertake; and it would certainly not be worth while setting up a colossal undertaking merely for the very temporary purpose of disposing of surplus goods. Disposals business therefore tends to flow into the hands of those who are prepared to bear inconvenience and risks; and, whatever method of Disposal is adopted, the principal purchaser will always be the middleman, leaving the Disposals agency with no direct means of protecting the interest of the consumer. This makes it all the more important that the consumer should not be deprived of the only indirect protection left to him, namely, wide competition among those who buy surplus goods.

11. Keeping these considerations in view, the Committee have reviewed the existing methods of Disposal, and have concluded that the failure of the original tender system, in spite of wide publicity through catalogues, and the emergence of negotiation as the principal method of Disposals presents the chief problem in Disposal. In practice, the original advertised tender has come to be regarded as nothing more than the opening gambit in the process of negotiation. The result of negotiations extending to such a wide field, as has been the case, inevitably gives rise to suspicion, and to complaints from those who have been unsuccessful.

12. The Committee recommend that the principal method of disposal should be by public offer at a reserve price with an unqualified commitment to sell at or above the reserve. This is a method which the Director General has already developed in some degree by special weekly advertisement of selected items. The results have been favourable, and justify its extension to a wider field. The Government of India have accordingly accepted this basic recommendation as to disposals methods and issued instructions to the Director General Disposals accordingly.

13. It has, however to be recognised that disposals methods must be affected by such considerations as type and condition of stores, location, urgency. The Government of India consider that the principle accepted above should not be applied so rigidly and mechanically as to leave no discretion at all to the

Director General in dealing with particular problems. Otherwise, we would take a very great chance of too easily losing what we could secure for the Treasury. The Director General will, therefore, be at liberty, in dealing with particular problems, to resort to negotiations without resort to tender when the circumstances appear to him to justify the course, and on obtaining the orders of Government.

14. It is believed that in the light of past experience the Director General will be able to fix a reasonable reserve price in most cases. The reserve price itself, however, particularly in large transactions, has often an important effect on the market's judgment of what to offer, and consequently on the return which Government can reasonably expect. The Government of India, therefore, feel that the reserve price should be fixed at a level which is 'moderate', in the light of past experience, rather than 'attractively low', as suggested by the Committee.

15. The Government of India consider that it would be unwise to resort generally (as the Committee recommend) to re-advertisement with a lower reserve price, if the first attempt fails. There may be exceptional cases of genuine mistakes in fixing the reserve price in which re-advertisement with a lower reserve price is justified; but, in general, the first call must be final. Otherwise, the prospect of further advertisement will operate as an inducement to hold off, and kill the prospect of establishing open tender with a stated reserve price as the principal method of disposal.

16. After an attempt by the principal method has proved unsuccessful, the Government of India consider that the Director General must be left to decide in the light of the consideration of speed and the general public interest, whether to resort immediately to auction or to proceed by negotiation with as wide a circle of likely buyers as possible. Power to negotiate in this, as in the cases of negotiation initially contemplated by paragraph 18 above, will however be confined to, besides the Director General, the Deputy Directors General and the Regional Commissioners, in consultation with their respective Financial Advisers and will be used sparingly and in the case of Deputy Directors General and Regional Commissioners only with the sanction of the Director General.

17. The Government of India agree with the Committee that there should be a wider resort to auction in the first place than at present. The disposal of many small items which have been in the past included in general catalogues can appropriately be decentralised, and the items auctioned at once. Auction will also come into increasing use for stores which have failed to realise the reserve price on call for tender.

18. The Committee have also recommended that the standard terms of disposals sales should include guarantee of quantity. The present practice is readily to allow a rebate on the agreed price, if shortages are established and replacement from other surpluses is impossible. The Government of India consider that in the peculiar circumstances, which often involve some degree of unreliability in declaration, it would be unsafe to go further by way of contractual commitment to specific performance. In any case they think that from the purchasers' point of view the more important consideration and the greater risk is quality and condition.

19. In part IV of their Report, the Committee have reviewed the use of trade channels and have emphasised the limited extent to which established trade channels can be satisfactorily employed as a method of disposals. Trade channels will continue to be used where possible, but, as the Committee state the field for extension and development of this method is severely restricted. The Government of India agree with the Committee that controlled commodities must be disposed of within the provision of the control orders in force. At the same time the situation in respect of such commodities must be kept continually

under review, to ensure that speed in disposal, which is of particular importance in the case of commodities in short supply, is not sacrificed unnecessarily to meticulous compliance with control orders. Within the strict field of any control there are likely to be particular categories to which, owing to such considerations as of deterioration, comparative uselessness for peace-time requirements, or excessive quantity, detailed control of disposal is unnecessary, while speedy disposal may enable an alternative use to be found quickly, to the advantage of the general economic situation. For such, arrangements for auction should be speedily made by the Controller who is ordinarily the disposal agent in such cases.

20. The Government of India agree with the Committee that disposal should be by outright sale and that the use of agencies should be avoided. Agency and commission sales may entail delay in disposal and in release of personnel, while prolonging the expenses of custody and occupation of storage space.

#### **Publicity.**

21. The Government of India agree that publicity by the catalogue system and the associated disposals method of open public offer without a reserve has, as the Committee point out, been unsuccessful, and it has not justified the expense involved. The distribution of these catalogues was attempted mainly through Chambers of Commerce and Trade Associations, but has met with steadily decreasing interest on the part of these organisations. To implement the decision regarding the principal method of disposal, it is now proposed to introduce a Fortnightly Bulletin (in addition to special press advertisements on the present lines) which will contain essential particulars of stores and the reserve price fixed, and will itself be an invitation to tender in accordance with the principal method now to be adopted. The Bulletin will also include information about any cases open to negotiations and will in future be issued, direct to those who register themselves on a mailing list.

22. In the matter of post-sales publicity, Government consider that some caution is necessary for the protection of purchasers. Auction sales are themselves public, and the system of tender with reserve prices, now to be extended to become the principal method of disposal, secures that all interested purchasers can be present at the opening of the tenders and know the result. In the case of negotiated sales, the practice has been to keep the terms confidential between the purchaser and the Department, as is the general practice in the United Kingdom. Government however agree with the Committee in para. 88 of their Report that the balance of advantage in this respect lies in the maximum possible publicity for the results of important sales. The Director General has accordingly been directed that the results of all sales by negotiation and of important sales otherwise should be published in the Bulletin.

23. The Committee have also recommended that negotiations should be subject to periodical scrutiny by an independent authority. Government accept this recommendation. All transactions concluded by negotiation will be periodically circulated to the Standing Committee of the Legislature.

#### **Organisation.**

24. The Committee's review of the development of the organisation brings out the difficulties (which have also been felt in the counterpart of the Disposal organisation in the Defence Services), of the need for maintaining

and in fact expanding a temporary organisation to deal with an emergent problem at a time when the War had come to an end, and when the best of these temporary officers were very anxious to return to their civil employment. The Government of India note and endorse the Committee's appreciation of the success of the Director General's efforts in bringing the organisation to a point, where with only comparatively minor adjustments to conform to changes of methods now recommended, it should be able to deal satisfactorily with any future situation which it is reasonable to anticipate. The Government of India accept generally the recommendations regarding the organisation and will pursue the question of changes and improvements on the lines suggested by the Committee.

25. On the particular question of engagement of Members of the Legislature or persons otherwise prominent in public life in the disposals transactions, the Government of India feel that after this public expression of opinion of the Enquiry Committee against participation of such persons, this is a matter which should be left to the good sense of those concerned.

26. In conclusion, the Government of India wish to express their gratitude and appreciation to Sir Maurice Gwyer and Dewan Bahadur Sir T. Vijayaraghavacharya for accepting this onerous task and carrying it through with their usual high conception of public duty.

#### ORDER

ORDERED that a copy of this Resolution be communicated to all Provincial Governments, all Chief Commissioners, the several Departments of the Government of India, including Military Finance Department, the Political Department, the Cabinet Secretariat, the Private and Military Secretaries to H.E. the Viceroy, the Central Board of Revenue, the Auditor General, Director General, Industries and Supplies, Director General, Disposals, Regional Commissioners of Disposals, the High Commissioner for India in London and all recognised Chambers of Commerce.

ORDERED also that it be published in the *Gazette of India*.

A. A. WAUGH, Secy.